

REMARKS

Applicant has amended the Specification in order to obviate the Office's rejection. Applicant has further amended the specification to provide a reference to the issued patent as well.

Claims 1-4, 6-11, 18-19, 21-25, 34 and 36 are rejected under 35 U.S.C. § 102(b) as anticipated by Tso et. al. (U.S. Patent No. 6,088,803.) Applicant respectfully traverses the rejection.

Tso, the Office asserts, has all the elements of independent claim 1. The Office's position is predicated upon Tso's "parser" being viewed as the equivalent of the "protocol parser" of claim 1, citing Col. 6, lines 10-24. With all due respect, Applicant does not agree because the passage cited is not complete – the remainder of the passage makes clear that Tso's "parser" does not have the operations that the Office would claim for it.

First, as seen at Tso at Col. 6, lines 25-29, lines 38-41 and lines 55-8, the parser is coupled to an HTTP remote proxy. Such a proxy by definition only receives one type of data – that transmitted over the HyperText Transport Protocol. There is no "protocol parser" nor "protocol scanner" nor their equivalents referred to in the cited language in Tso for a very simple reason – the only data being examined is that using a single protocol HTTP. Since the data is only HTTP data, Tso does not need to implement a protocol parser or scanner – the cited passage teaches a device that can only intercept data being transmitted using the HTTP protocol.

Thus, Tso is simply incapable of anticipating the elements of claim 1. There is no

“protocol parser” -- Tso has no need to parse protocols. Instead it is operates wholly on a single protocol HTTP. Since there is no protocol parser, there can be no interception of instant messaging or peer to peer code by a protocol parser to a proscribed code scanner. (Moreover, Applicant cannot find any mention of instant messaging or peer to peer code in Tso.) Finally, it is submitted, Tso’s virus checker is not the same nor can be defined to be the same element as claim 1’s proscribed code scanner – it does not receive code from a protocol parser and could not be configured to receive code from a protocol parser. Tso has no protocol parser.

The lack of a “protocol parser” in Tso includes the failure of Tso to teach, suggest or disclose any “protocol parser” (which is described in the parent, e.g., at Col. 6, line 56 Col. 7, line 9: “In this embodiment of the method and system, during scanning, the NTI 40 can discriminate among different protocols implemented on top of the transport layer, using different methods of handling each protocol. A protocol is a strict set of rules that govern the exchange of information between computer devices. To communicate successfully, the communicating computers must use the same protocol....FIG. 4 further illustrates an embodiment of the method and system in which, during scanning, the NTI 40 may be used in conjunction with parsers to track the state of and modify the behavior of selected protocols. This function is performed by the Protocol Parser 41. Parsers are used to discriminate among different protocols implemented on top of the transport layer.”)

Accordingly, Applicant respectfully requests the withdrawal of the rejection to claim 1.

Applicant further respectfully requests the withdrawal of the rejection to claims 2-

4, 6-8, and 10 as they depend from allowable base claim 1. Therefore, Applicant submits, they are allowable as well.

Independent claims 9, 11, 18, 34 and 36 share a similar limitation as claim 1 with regard to providing a protocol parser and/or parsing code. Thus, Applicant submits, the argument above with regard to claim 1 apply to these claims as well. Thus Applicant respectfully requests the withdrawal of the rejection to those claims.

Claims 19 and 21-25 depend from claim 18. Therefore, Applicant respectfully requests the withdrawal of the rejection to those claims as they depend from an allowable base claim.

Claims 5, 12, 15-17, 20, 26-29 and 32-33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tso as applied to claims 1 and 18 and further in view of Johnson (US Patent No. 5,682,428.) Applicant respectfully traverses the rejection.

As was noted above, the failure of Tso to reference, teach, suggest or disclose a protocol parser, and instead operate only within the narrow constraints of a single protocol removes Tso as a reference. Accordingly, the combination of Tso and Johnson fails as well. Moreover, as Tso fails to disclose any reference to encryption, it similarly fails to teach or suggest any encryption.

Thus, Applicant respectfully request the withdrawal of the rejection to claims 5, 12, 15-17, 20, 26-29 and 32-33.

Claims 13-14 and 30-31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over a combined Tso - Johnson system and further in view of Elgamal et. al. (U.S. Patent No. 6,389,534.) Applicant respectfully traverses the rejection.

As was noted above, the failure of Tso to reference, teach, suggest or disclose a

protocol parser, and instead operate only within the narrow constraints of a single protocol removes Tso as a reference. Accordingly, the combination of Tso and Johnson fails as well. Moreover, as Tso fails to disclose any reference to encryption, it similarly fails to teach or suggest any encryption. Finally, the addition of the Elgamal reference does not make the combination of the references any more relevant.

Thus, Applicant respectfully request the withdrawal of the rejection to claims 13-14 and 30-31.

Applicant notes the remaining references cited by the Examiner.

CONCLUSION

Therefore, for the reasons given above, Applicant submits the application is now in condition for allowance and Applicant respectfully requests early issuance of the Notice of Allowance.

Respectfully submitted,


Joseph E. Chovanes
Registration No. 33,481
Suite 329
5 Great Valley Parkway
Malvern, PA 19355
(610) 648-3994